IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.01.2005

Coram:

The Honourable Mr.MARKANDEY KATJU, Chief Justice

and

The Honourable Mr.Justice D.Murugesan

W.A.No. 551 of 1998

Transworld Trading Corporation
rep. by its Partner Mr.Girdharilal Chandak,
No.43, Mount Road,
Madras - 600 002. ... Appellant

vs.

Employees Insurance Corporation
rep. by its Regional Director
Regional Office (Tamil Nadu)
No.143, Sterling Road,
Nungambakkam,
Madras - 600 034. …Respondent

Appeal filed under Clause 15 of the Letters Patent against the order dated 27.2.1998 made in W.P.No.7376 of 1986.

For Appellant :: Mr.G.R.S.Chander Rao

For Respondent :: Ms.Jayakumari

J U D G M E N T

(The Judgment of the Court was delivered by
The Honourable The Chief Justice)

This writ appeal has been filed against the judgment of the learned single Judge dated 27.2.1998. The appellant filed the writ petition against the order passed under Section 45-A of the Employees' State Insurance Act, 1948.

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2. In our opinion, the petitioner had an alternative remedy of approaching the E.S.I. Court under Section 75 of the E.S.I. Act. The writ petition was liable to be dismissed on this ground itself instead of going into the merits. It is well settled that when there is allegation of violation of a provision of a special statute the party aggrieved must first approach the forum created by that statute, vide Management of GE Power Controls India (Pvt) Ltd. & another v. Workmen of GE Power Controls India Pvt. Ltd. & others (2005 (1) LW 126) and Indian Additives Ltd. v. Indian Additives Employees' Union (2005 (1) CTC 1).

3. Hence, without going into the merits of the impugned judgment, we are of the opinion that the writ petition itself was liable to be dismissed on the ground of alternative remedy of approaching the E.S.I. Court under Section 75 of the E.S.I. Act. We are also of the opinion that the E.S.I. Court has the power to grant interim order, if an application under Section 75 is filed. We further make it clear that any findings recorded by the learned single Judge will not be binding on the E.S.I. Court.

4. With these observations, the writ appeal is disposed of finally. The impugned judgment is set aside and the writ petition is dismissed on the ground of alternative remedy. No costs.

27.01.2005

ss/pv

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

The Regional Director
Employees Insurance Corporation
Regional Office (Tamil Nadu)
No.143, Sterling Road,
Nungambakkam,
Madras - 600 034.
1 cc to M/s.S.Jayakumari, Advocate, SR.2990

je (co)
dv

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